

EXECUTIVE OFFICER SUMMARY REPORT
November 9, 2005

ITEM: 8

SUBJECT: Supplemental Environmental Project (SEP): JRMC Real Estate, Inc., Escondido, CA. The Regional Board will consider a \$200,000 SEP proposal titled "Invasive Species/Erosion Control Program (ISECP) - Stormwater SEP" located in the upper and middle Escondido Creek watershed (HSU 4.62 and 4.63). (Tentative Resolution R9-2005-0262) (*Frank Melbourne*).

PURPOSE: Proposal of a SEP is part of the settlement of the \$1.2 million Administrative Civil Liability Order (ACL) No. R9-2005-0237 adopted by the Regional Board on September 14, 2005, which allows the Discharger to satisfy up to \$200,000 of the liability to fund SEPs that are acceptable to the Regional Board. If the Regional Board does not approve the discharger's proposal by December 14, 2005, then JRMC will be required to send \$200,000 to the State Board's Cleanup and Abatement Account. The Regional Board will consider a \$200,000 SEP pursuant to the terms of ACL Order R9-2005-0237.

PUBLIC NOTICE: A newspaper notice of this action was published in the North County Times on October 10, 2005.

DISCUSSION: The Regional Board received JRMC Real Estate, Inc.'s SEP proposal on October 3, 2005 along with a request to place the SEP proposal before the Regional Board for consideration at the November 9, 2005 meeting (Document No. 2). The SEP proposes to develop and partially implement a plan to control invasive exotic plant species in the upper and middle Escondido Creek watershed, and to a minor extent address stream bank and bed erosion.

Regional Board staff reviewed the proposed \$200,000 SEP and in a letter dated on October 25, 2005 documented the following concerns with JRMC and asked for additional information (Document No. 3):

- 1. Existing Watershed-Wide Invasive Plant Species Removal Project Initiated**
The State Water Resources Control Board has already funded the removal of exotic invasive plant species throughout the

entire Carlsbad Hydrologic Unit through a Proposition 13 Watershed Protection Program grant of \$3.96 million with the San Elijo Lagoon Foundation (SELC). This grant-funded project has already completed the planning, CEQA compliance, and permitting work for the entire watershed that will also be necessary in the JRMC SEP proposal. The SELC project received 80% of the funds requested and is actively seeking additional funds to complete more of the implementation tasks.

There being an existing larger scale grant-funded project already underway in the watershed raises the concern of whether there is a need to expend an additional \$76,500 of the \$200,000 available for a project to develop and manage a parallel plan, secure permits, and complete CEQA. As an alternative, the proposed SEP could be revised to contribute funds directly to, or participate with, the SELC project. This would help achieve the stated goal (exotic invasive species removal) of the proposed SEP without duplicating the already completed planning, CEQA, and permitting tasks.

2. Insufficient Information Provided

The proposed SEP fails to provide sufficient information to determine how much of the plan will be completed within the two years proposed for implementation. Although the proposal clearly states that there are not enough funds to complete the proposed work, there is no estimation of how much invasive species removal and/or stream erosion repair might be done with the \$104,000 of the total \$200,000 SEP funds. Under the scenario utilizing a 5-person crew, the \$104,000 allotted for implementation could be used up rapidly and a vast majority of the proposed work removing invasive plant species would not be completed under the SEP.

3. Only A Small Portion Of The SEP Will Be Completed

Only 52% of the funds are for implementation of the SEP, which will only remove exotic invasive species in a minimum of one yet to be defined "management unit."

4. Native Plant Species

The proposed SEP fails to discuss the reintroduction of native plant species where invasive exotics have been removed.

5. Oversight Costs

The proposal includes \$8,500 for Regional Board staff oversight costs against the advice of Regional Board staff that JRMC make additional payment to the State to cover the cost of Regional Board oversight beyond a nominal time to oversee

the progress of a SEP. Since the Regional Board is already funded to provide oversight to the grant-funded SELC project, no additional funds for Regional Board oversight would be needed if the proposed SEP participated with the SELC project rather than create a parallel project.

The Regional Board advised JRMC, by letter dated September 15, 2005, that SEPs proposed by JRMC may or may not be approved by the Regional Board. Therefore, the Regional Board recommended JRMC consider submitting additional SEPs as alternative proposals. JRMC may propose to revise this SEP or submit an entirely different SEP proposal for consideration by the Regional Board by the deadline date of December 14, 2005. In order for the Regional Board to consider a SEP, these other proposal(s) would need to be submitted by November 9, 2005.

KEY ISSUES:

1) Is approval of the \$200,000 SEP proposal an effective and efficient means of protecting and improving water quality? 2) Is there sufficient information provided by the proposal to support concurrence? 3) How much of the plan will be completed by this SEP? 4) Is there a better way to protect and improve water quality in the watershed with the \$200,000?

LEGAL CONCERNS:

None.

**SUPPORTING
DOCUMENTS:**

1. JRMC SEP Proposal “ Escondido Creek Watershed Invasive Species/Erosion Control Program
2. Regional Board Letter, October 27, 2005

RECOMMENDATION:

It is recommended the Regional Board not approve the SEP as initially proposal on October 3, 2005.